

**Proposed City Council Response to Findings and
Recommendations in San Diego Grand Jury Report
“Time for Repeal of the People’s Ordinance.”**

GRAND JURY FINDINGS

Finding 01: The [People’s] Ordinance is inequitable because it forces some residents to pay for trash services, while it provides trash services to others without an additional fee.

Proposed Response: Partially Disagree. City trash collection services are paid for from the General Fund, while City recyclables and greenery collection services are paid for from the Recycling Fund. The General Fund is made up of property taxes, sales taxes, transient occupancy taxes, franchise fees, business taxes and other fees and taxes paid by City residents and businesses. City residents and businesses that are eligible to receive City collection services do not pay a fee for those services over and above their contributions to the General Fund. However, most multi-family residential facilities, some single family residents, and most businesses pay a fee for private collection services in addition to their contributions to the General Fund because they are not eligible for City collection services.

Under the People’s Ordinance, the City is required to provide refuse collection services at no charge only to those residents who meet its eligibility criteria. Specifically, the People’s Ordinance:

- (1) requires the City to collect residential refuse once a week, at no charge to the customer, from single family and multi-family residences which place their refuse at the curb of a public street in a City approved container on the designated collection day;
- (2) prohibits the City from collecting non-residential refuse, with the exception of refuse from small business enterprises if authorized by City Council and limited to once a week service in an amount no greater than 150% of the refuse generated by an average residential dwelling unit; the City may not charge a fee for this service;
- (3) prohibits the City from going onto any private street, alley, driveway, parking lot or other private property to collect refuse, except in the case of a public emergency or pursuant to a pre-existing hold harmless agreement.

As a result of these provisions in the People’s Ordinance, most multi-family residences and some single family residences are ineligible for refuse collection service by the City. There are two primary reasons why these residents do not qualify for City service: (1) the

single family or multi-family residence is located in a private development without a hold harmless agreement or otherwise cannot be accessed by public streets; and/or (2) the weekly amount of refuse generated by the multi-family residence is too great to allow for the use of City approved containers. Consequently, the practical implication of the People's Ordinance is that some residents receive refuse collection by the City for no additional charge, while others must pay a private hauler or collect and dispose of their waste at their own expense in addition to the fees or taxes they pay into the General Fund.

Finding 02: The total annual cost to the City for all trash and recycling services provided without a fee to San Diego residents is \$52.7 million per year.

Proposed Response: Partially Disagree. The FY 2009 budgeted cost to the City is approximately \$38 million for refuse collection, \$9 million for recyclable commodities, and \$7 million for yard waste collection, for a total of \$54 million. These budgeted costs include expenditures related to the unfunded pension liability and pre-funding of the retiree health liability. However, they do not include the cost of a customer billing system and other costs, such as additional customer service and staff training, that may be associated with a fee-based collection service. In addition, these budgeted costs do not reflect potential cost savings that might be achieved through the managed competition process.

Refuse collection services are funded by the General Fund, while recycling and yard waste collection is provided by the Recycling Fund. While there are no fees charged by the City for these services, the Recycling Fund is partially funded through AB 939 fees paid by private refuse haulers, which are passed on to commercial and multi-family customers. In FY 2009, AB 939 fees from private refuse haulers were budgeted at \$8 million.

Finding 3: A variable-rate pricing strategy would reduce the amount of waste going to the City's landfill and increase the amount of material being recycled.

Proposed Response: Partially Disagree. Variable-rate pricing strategies, also known as pay-as-you-throw (PAYT), can create a financial incentive to reduce the amount of waste that is produced. As of 2006, over 500 communities in California utilized some form of a PAYT program¹, including cities such as San Jose, San Francisco, Sacramento and Oakland. Studies by Skumatz Economic Research Associates, a solid waste and energy consulting firm, have estimated that on average PAYT programs result in a 16-17 percent reduction in landfilled municipal waste, with 8-11 percent being diverted to recycling and yard waste programs, and another 6% decreased due to source reduction².

¹ Skumatz, Lisa A., PhD. And David J. Freeman, "Pay as you Throw (PAYT) in the US: 2006 Update and Analyses", prepared for US EPA and SERA, by Skumatz Economic Research Associates, Superior CO, December 2006.

² *Ibid.*

However, there are other methods of waste diversion that should be evaluated as well, such as the use of two bins for recycling or a bonus-based system for haulers that rewards waste diversion. In addition, the City has already achieved over a 50% diversion rate, making it uncertain how much more effective a PAYT pricing structure would be. The pros and cons of all methods should be considered prior to implementation of any single strategy.

GRAND JURY RECOMMENDATIONS

Recommendation 09-02: Place a measure on the ballot to repeal the [People's] Ordinance

Proposed Response: This recommendation requires further analysis. Members of the City Council have differing views on the recommendation to place a measure on the ballot to amend or repeal the People's Ordinance. There are many policy, fiscal, operational, personnel, and other issues that need to be examined and evaluated, and public input received, before the City Council can make a determination on this recommendation. In order to advance this process, this recommendation will be prepared for further discussion and scheduled for a public hearing no later than October 2009. It should also be noted that a measure to repeal or amend the People's Ordinance may be placed on the ballot through a voter initiative.

With respect to the City's commitment to recycling, on April 28, 2009 the City Council approved a package of fee increases designed, in large part, to protect the financial health of the Recycling Fund in FY 2010. As a condition of the approval of these fee increases, the City Council directed the Environmental Services Department to initiate a "Phase II" discussion with various stakeholders in order to develop a more sustainable financial model for the City's solid waste management system to include an examination of potential revenue opportunities and cost reductions through operating improvements. It is anticipated that this process will be completed before the City's FY 2011 budget deliberations.

Recommendation 09-03: Consider adopting a variable-rate fee schedule for trash services provided by the City once the Ordinance is repealed.

Proposed Response: This recommendation requires further analysis. If voters approve a ballot measure to amend or repeal the People's Ordinance, and the City moves to implement a refuse collection fee, a variable-rate fee schedule will likely be considered along with other methods and strategies designed to incentivize waste reduction.

However, there are many issues that would have to be considered prior to establishing such a fee structure, such as the effectiveness of different types of variable-rate structures, the costs of implementation and administration, ease of implementation, reliability of revenue streams, and potential unintended consequences such as increased illegal dumping.